

**CUSTOM ELECTION CODE**  
**FOR**  
**Acho Dene Koe First Nation**  
**(Ratified on October 20, 2022)**

## Definitions

- 1) **“Appeal Board”** is the body of three (3) individuals appointed by the existing Council at the start of the election process responsible for responding to appeals from electors that are unable to be properly addressed by the Returning Officer.
- 2) **“Candidate”** means an approved Nominee.
- 3) **“Code”** means the Acho Dene Koe First Nation Custom Election Code.
- 4) **“Council”** means the Acho Dene Koe First Nation Council comprised of a Chief and Councillors as defined in this Code.
- 5) **“Council members”** means a Chief and Councillors.
- 6) **“Election Day”** means the day set aside for electors to vote in person and the final day for all ballots to be received by the Returning Officer; typically, the second Monday in June in the year that the term of the previous Council comes to an end or, in the case of by-elections, on a day set by Council compliant with this Code.
- 7) **“Elector”** (also known as a Voter) means a person eligible to vote in Acho Dene Koe First Nation elections as defined in this Code.
- 8) **“Employee”** means an employed person of Acho Dene Koe First Nation at the time of the close of nominations and one who receives bi-weekly remittance of payment for services provided to the First Nation or its company subsidiaries and is issued a Canada Revenue Agency T-4 for such services.
- 9) **“Existing Council”** means the Council of Acho Dene Koe First Nation in office.
- 10) **“Nominee”** means a person seeking approval to run as a Candidate.
- 11) **“Polling Station”** means a place set aside for voting in the community or elsewhere for Acho Dene Koe First Nation electors to vote on Election Day.
- 12) **“Quorum”** means the portion of Council members attending a meeting which can legally conduct business (usually 50% + 1 of all Council members).
- 13) **“Registered Member”** means a person whose name appears on the Indian Registry System as a member of the Acho Dene Koe First Nation (where the Acho Dene Koe First Nation membership list is maintained by the Government of Canada per Section 11 of the Indian Act) or on the Membership List of the Acho Dene Koe First Nation (where the Acho Dene Koe First Nation maintains control of its membership per Section 10 of the Indian Act).
- 14) **“Voter List”** means the names of eligible voters in a given election based on eligibility criteria defined in this Code.

## **APPLICATION AND COMING INTO FORCE**

1. This Code applies to all elections and by-elections for Chief and Councillors for the Acho Dene Koe First Nation once approved in a ratification vote by its members.
2. This Code replaces all previous versions of the Acho Dene Koe First Nation Custom Election Code and other similarly named documents defining the Acho Dene Koe First Nation election rules and regulations.
3. This Code comes into force upon acceptance by its Members and shall be used in future Acho Dene Koe First Nation elections.

## **DATE OF ELECTION**

4. Elections for Council shall be held every three (3) years, in the month of June.
5. The existing Council shall set the election date at a duly convened Council meeting.

## **TERM OF OFFICE**

6. The term of office is three (3) years for all Council positions filled in an election, and the remainder of the term of any vacant seat filled in a by-election.

## **RETURNING OFFICER**

7. The existing Council shall appoint a Returning Officer no later than 85 days before Election Day and approve a budget for expenses related to the election.
8. The Returning Officer shall be independent of Council and shall not vote in the election.
9. The Returning Officer shall be responsible for administering and conducting the election in accordance with this Code. Duties include:
  - a) Posting and issuing notices and announcements as defined in this Code;
  - b) Responding to all inquiries regarding the election process;
  - c) Providing nomination forms to all Members who request them;
  - d) Supervising the polling station and guarding the confidentiality and safety of all ballots;
  - e) Counting the ballots after voting ends per this Code;
  - f) Safekeeping of all the ballots after the election is over; and,
  - g) Carrying out all other duties and functions necessary to administer the election in accordance with this Code and ensure the integrity of the election process.

10. The Returning Officer shall have the authority to hire and set the working terms for election staff, noting that they shall not be employees of Acho Dene Koe First Nation, to assist him/her with the election process, and per the approved budget.
11. The Returning Officer may apply procedural amendments to this Code during an election to ensure that the election is properly and fairly administered.

#### **APPEAL BOARD**

12. The existing Council shall appoint an Appeal Board of three (3) individuals at the same time as the appointment of the Returning Officer. The Appeal Board shall remain unbiased and fair throughout the election process and respond to any valid appeals or complaints from electors regarding actions or decisions made by the Returning Officer.
13. Appeals or complaints from electors must be submitted in writing to the Appeal Board who shall subsequently convene, then respond in writing to the person/s that submitted the appeal within a reasonable period of time and after consulting with the Returning Officer. The decision of the Appeal Board shall be final.

#### **ELIGIBILITY CRITERIA FOR ELECTORS**

14. To be eligible to vote, an individual must be:
  - a) A Registered Member of the Acho Dene Koe First Nation whose name appears or should appear on the Voter List; and,
  - b) 18 years of age or older on Election Day.
15. The Returning Officer shall finalize a list of electors who meet the eligibility criteria set out per section 14. The list shall be called the Voter List.

#### **NOTICE OF NOMINATIONS**

16. The Returning Officer shall provide the Acho Dene Koe First Nation members with fourteen (14) days notice of the nomination period as follows:
  - a) Posting a Notice prominently in the community of Fort Liard;
  - b) Posting a Notice online via the Acho Dene Koe First Nation website and/or other prominent online information sources for Acho Dene Koe First Nation member news; and,
  - c) Mailing a Notice to electors with a current mailing address on record with the Membership Clerk / Band Office of Acho Dene Koe First Nation.
17. Notice of the Nomination Period shall indicate:
  - a) The date and time of when nominations open and close;

- b) How nomination forms may be obtained;
- c) The dates of the election if there are enough candidates for a vote; and,
- d) The name, phone number, and email address of the Returning Officer.

### **NOMINATION PROCESS**

- 18. The nomination period shall be fourteen (14) days and begin no less than fifty-six (56) days before Election Day.
- 19. Nominations shall be submitted in writing using the form provided by the Returning Officer. Nominations must be signed by two (2) electors and the nominee, before being submitted to the Returning Officer.
- 20. Each elector may nominate only one candidate for the position of Chief and one candidate for the position of Councillor.
- 21. A member is eligible to be nominated for Chief or a position on Council if he/she/they meets the criteria as defined in this Code.
- 22. A member may run for both Chief and Councillor.
- 23. If a Nominee is not satisfied with the decision of the Returning Officer regarding their ineligibility as a Candidate, he/she/they may appeal that decision to the Appeal Board within five (5) days, whose decision on the matter shall be final.

### **ELIGIBILITY OF CANDIDATES**

- 24. The following are eligibility requirements for the position of Chief or Councillor:
  - a) Any individual whose name appears or should appear on the Voter List;
  - b) Is not in debt to the Acho Dene Koe First Nation or any of its subsidiary companies, financially or otherwise, for an amount equivalent to \$500.00 or more at the end of the nomination period; and,
  - a) Has not been convicted of an indictable offence in the five years prior to the close of the Nomination Period.
- 25. If an Acho Dene Koe First Nation employee wishes to run for office, he/she/they must take leave of absence without pay upon accepting his/her nomination and, if elected, continue that leave until the end of his/her term.
- 26. If an individual wishes to run for office, he/she/they must indicate in writing their intention to relocate their primary residence to the community of Fort Liard within sixty (60) days of the publication of the final election results.

### **WITHDRAWAL OF CANDIDATES**

27. Candidates wishing to withdraw from the election must submit a written statement to that effect to the Returning Officer no later than five (5) working days after the close of nominations.

### **ELECTION BY ACCLAMATION**

28. After the nomination period and deadline for candidates to withdraw, the Returning Officer shall verify whether there are a sufficient number of candidates to proceed with an election. If there is only one (1) candidate for the position of Chief, and/or five (5) or fewer candidates for the position of Councillor, the Returning Officer shall declare those candidates duly elected by acclamation and cancel the relevant election(s).
29. The Returning Officer shall announce any election by acclamation and the resulting cancellation by posting a Notice online and in the community of Fort Liard.

### **NOTICE OF VOTE**

30. If the Returning Officer determines that there are a sufficient number of candidates to proceed to an election, a Notice of Vote shall be prepared with the following:
  - a) The names of the candidates running for Chief in alphabetical order;
  - b) The names of the candidates running for Councillor in alphabetical order;
  - c) The date of the election and the location(s) and hours of operation of the polling station(s);
  - d) The date, location, and hours of operation of any advance poll; and,
  - e) The name, phone number, and email address of the Returning Officer.
31. The Notice of Vote shall be distributed as follows:
  - a) Posted prominently in the community of Fort Liard;
  - b) Posted online via the Acho Dene Koe First Nation website and/or other prominent online information sources for Acho Dene Koe First Nation member news; and,
  - c) Mailed to all electors who have a current mailing address on record with the Membership Clerk / Band Office of Acho Dene Koe First Nation.

### **METHODS OF VOTING**

32. An elector may cast one ballot for the position of Chief and one ballot for all vacant positions of Councillor using one of the following methods:

- a) Voting in person as described in Sections 36 to 41 of this Code;
- b) Voting by mail as described in Sections 42 and 43 of this Code; or
- c) Voting online as described in Sections 44 to 47 of this Code.

33. All methods shall provide for voting by secret ballot.

34. The ballot for Chief shall:

- a) Instruct the voter to place a mark beside one (1) candidate name;
- b) List the candidate names in alphabetical order by last name; and,
- c) Include a clear photo of the candidate's face beside their name on the ballot to assist electors.

35. The ballot for Councillor shall:

- a) Instruct the voter to place a mark beside up to five (5) candidate names;
- b) List the candidate names in alphabetical order by last name; and,
- c) Include a clear photo of the candidate's face beside their name on the ballot to assist electors.

#### **VOTING IN PERSON**

36. A polling station shall be open from 9am and 8pm (local time) in Fort Liard on Election Day.

37. One or more South Slavey Dene-English translator-interpreters shall be available at the polling station to assist voters. The Returning Officer shall appoint the interpreters, who shall not be Acho Dene Koe First Nation employees or family members of the candidates.

38. Voters must be on the Voter List to receive ballots at the polling stations or sign a declaration of their eligibility to vote on a form provided to them at the time by the Returning Officer or designate.

39. A poster with a list of all candidate names and corresponding photo (as displayed on the ballots) shall be displayed in the polling station/s.

40. Ballots must be completed by the Voter while in the polling station; any ballot taken out of the polling station before being placed in the ballot box shall be invalid.

41. Candidates for Chief and Councillor may each appoint a scrutineer to observe the conduct of the polls and shall notify the Returning Officer in writing beforehand.

## **VOTING KIT**

42. No later than 35 days before Election Day, the Returning Officer shall mail to every elector with a current mailing address on record with the Membership Clerk / Band Office of the Acho Dene Koe First Nation a Voting Kit consisting of the Notice of Vote and:

- a) A ballot for Chief initialed on the back by the Returning Officer;
- b) A ballot for Councillor initialed on the back by the Returning Officer;
- c) A secrecy envelope with "BALLOTS" written on the outside to contain the completed ballots;
- d) A Voter Declaration Form requiring a witness name and signature;
- e) A postage-paid return envelope large enough to hold a) to d) above addressed to the Acho Dene Koe First Nation Returning Officer;
- f) A letter explaining how to vote online; and,
- g) A letter explaining mail-in voting procedures, including:
  - i. The proper way to complete the ballots;
  - ii. The date by which the mail-in ballots must be received by the Returning Officer in order to be valid; and,
  - iii. A statement advising that if a candidate for Councillor is also the successful candidate for Chief, the Councillor votes for that candidate will not be counted.

## **PROCEDURE FOR RECEIVING MAIL-IN BALLOTS**

43. As each mail-in ballot is received, the Returning Officer shall verify the name of the elector and store the unopened envelopes containing the ballot in a safe place until the votes are counted on Election Day.

## **PROCEDURE FOR ONLINE VOTING**

44. The online voting system shall be a proven system that meets proper identity verification standards and is designed to ensure the secrecy of all online votes cast using the system.

45. Any elector may vote online using the approved online voting system administered by the Electoral Officer.



46. If an elector chooses to vote online, they may do so by accessing the online voting web page, entering their identity verification information, and casting their ballot as instructed.
47. Online voting shall be open for one week (7 days) and close the day before the polling station/s operate/s unless the Electoral Officer chooses to also allow voting on the day the polling station operates while ensuring that no elector votes more than once as allowed per this Code.

#### **PROCEDURE FOR COUNTING THE BALLOTS**

48. Any interested Acho Dene Koe First Nation member may attend the vote count provided they agree to not interfere with the counting process or the Returning Officer.
49. The Returning Officer shall count the ballots after voting has closed on Election Day.
50. The Returning Officer shall start the counting by reviewing the online voting results and rejecting any online ballot that was cast by an elector who also voted in person.
51. The Returning Officer shall then open all mail-in ballots and reject any mail-in ballot that was cast by an elector who also voted online or in person.
52. The Returning Officer shall then open the Chief ballot box used at the polling station and count the ballots, then tally the results of all voting and declare the results as "Preliminary".
53. If a candidate running for Chief and Councillor was successful in being elected as Chief, that candidate's Councillor votes will not be counted.
54. The Returning Officer shall then open the Councillor ballot box used at the polling station and count the ballots, then tally the results of all voting and declare the results as "Preliminary".
55. The candidate running for Chief with the most votes shall be declared Chief and the five Councillor candidates with the most votes shall be each declared Councillor.
56. If there is a tie for either Chief or the final Councillor seat, the Returning Officer shall break the tie using a method of random selection (either coin toss or pulling the name out of a hat or appropriate container).
57. If the margin of loss for any Candidate to earn a seat on Council is one (1) vote or one percent (1%) or less of the total number of votes cast (whichever is greater), a recount shall be carried out by the Returning Officer as soon as possible.
58. Further to sections 50 and 51, the Returning Officer shall also reject any ballot:

- a) That was not initialed on the back by the Returning Officer;
  - b) On which more marks next to candidate names have been made than are permitted;
  - c) On which the voter has made a mark that reveals his/her identity; or,
  - d) That was marked such that the voting choice of the elector is unclear to the Returning Officer.
59. The Returning Officer shall write “Rejected” on any paper ballot that is rejected and keep these ballots separated from the valid ballots.
60. All ballots shall be kept by the Returning Officer for a period of 90 days following the announcement of the results of the election. The ballots shall be kept in sealed envelopes with the Returning Officer’s signature inscribed across the seal of the envelope.

#### **ELECTION RESULTS**

61. The Returning Officer shall announce the preliminary results of an election as soon as possible after the poll closes and the ballots are counted. The announcement shall be made by posting a notice prominently in public places within the community of Fort Liard. The notice shall state “Preliminary Results”, be signed by the Returning Officer, and indicate:
- a) The names of the candidates;
  - b) The numbers of votes for each candidate;
  - c) The number of voters who participated; and
  - d) The number of spoiled or invalid ballots.
62. Where a candidate has been elected as Chief and was also running for the position of Councillor, the Returning Officer shall:
- a) Strike the newly elected Chief from the list of candidates for the position of Councillor, and;
  - b) Post a revised list of candidates for the position of Councillor at the same time as the results of the election for Chief are announced. The list must be posted prominently in public areas within the community of Fort Liard.
63. Where the election of a candidate of a Chief who was also running for the position of Councillor results in the reduction of the number of candidates running for the position of Councillor to five (5) or less, the Returning Officer shall declare the remaining candidates to have been duly elected by acclamation at the

same time as the results of the election for Chief are announced and shall cancel the election for Councillors.

64. Upon confirmed election results for Chief and Council and being sworn into office, they shall be authorized to assume immediate legal responsibilities for the continued smooth operations of the Acho Dene Koe First Nation.

#### **ELECTION APPEALS**

65. Where an elector or candidate believes that the election process violated this Code and that this violation may have significantly changed the outcome of the election, he/she/they may appeal the results of the election to the Returning Officer or Appeal Board within fourteen (14) days of the announcement of the election results.

#### **PROCEDURE FOR SUBMITTING AN APPEAL**

66. The appellant must pay a \$100 fee and submit their appeal in writing to the Appeal Board within *fourteen (14) days* of Election Day, stating the circumstances and specifying the part(s) of this Code which he/she/they believes were violated. This fee will be refunded to the appellant if the appeal is successful.

#### **CONSIDERATION OF APPEAL BY THE APPEAL BOARD**

67. The Appeal Board shall investigate the circumstances of the appellant's allegation and decide within twenty-eight (28) days after Election Day:
- a) Whether the allegation is based in fact; and,
  - b) If so, whether it is sufficiently serious to nullify any part of or the entire election against which the offence(s) were committed.
68. If the Appeal Board decides that the offence(s) committed are sufficiently serious, it may order that the result of the election against which the offence(s) were committed be declared null and void, and that a new election be held in its place, in accordance with the provisions of this Code.
69. Regardless of whether an appeal is accepted or rejected by the Appeal Board, its decision shall be final and not subject to any further appeals.

#### **PUBLICATION OF ELECTION RESULTS**

70. After all appeals have been dealt with, the Returning Officer shall replace the Preliminary Election Results with the Official Election Results reflective of any appeal decisions.

#### **VACANCIES ON COUNCIL**

71. A vacancy shall be declared on Council when a Council member:

- a) Resigns his/her office;
- b) Is unable to continue his/her/their duties due to illness, disability, or death;
- c) Is unable to meet the requirement of relocating to Fort Liard within the stated timeframe;
- d) Becomes ineligible to hold office; or,
- e) Is removed from office.

72. Vacancies will be filled on Council 30 days after receipt of notification that the individual will no longer be on Council. Dependent upon the number of vacancies on Council, the positions will be filled by the first and second runner up once they are approached and agree to assume a role on Council.

73. If “runner-up(s)” is/are not available to assume a position on Council, a by-election will be called to fill the position.

#### **VACANCIES ON COUNCIL LESS THAN SIX MONTHS**

74. If one or more vacancies occur less than six (6) months prior to the end of the Council’s normal term of office, it/they shall remain unfilled, and the quorum of Council shall be reduced appropriately.

#### **PROCEDURES FOR FILLING VACANCIES LONGER THAN SIX MONTHS**

75. Vacancies longer than six (6) months shall be ordered filled by Council either by:

- a) Appointing to fill out the remainder of the term the candidate who received the next highest number of votes in the previous election; or,
- b) Holding a by-election for the position if the next candidate/s per Section 75a above is/are unwilling or unavailable.

**Exception:** In case of a vacancy longer than six (6) months created by the removal from office of an elected official, the vacancy thus created must be filled by a by-election.

#### **VACANCY FOR POSITION OF CHIEF**

76. If the Chief’s position becomes vacant within the first two years of the election, a by-election shall be called. If the vacancy should occur between the second and third year of office, then the position shall be filled by the Sub-Chief. The Councillor position thus vacated shall be filled as provided for.

#### **PROCEDURES FOR HOLDING BY-ELECTIONS**

77. The procedures for by-elections shall be the same as the procedures for elections provided for in this Code, other than the election date not having to be in June

and the term of office being the remainder of the term for the position being filled rather than three years.

#### **NOTIFICATIONS OF AUTHORITIES**

78. Upon publication of the official results, the existing Council shall notify the appropriate authorities with the Government of Canada accordingly and indicate the date when the new Council is to take office.

#### **ASSUMPTION OF OFFICE BY NEW COUNCIL**

79. The newly elected Council shall assume office on the first working day of the week following the publication of the Official Election Results.

80. The incoming Council shall appoint by majority vote a Sub-Chief from among themselves at their first Council meeting.

81. All signing authorities of Acho Dene Koe First Nation must be able to communicate (speak, understand, and write) in English.

82. Any successful candidates residing outside the community of Fort Liard are required to relocate their primary residency to the community of Fort Liard within sixty (60) days of the publication of the final election results.

#### **OATH OF OFFICE FOR CHIEF AND COUNCILLOR S**

83. On the day the new Council takes office, each newly elected (or re-elected or acclaimed) member shall be required to take an Oath of Office before an appropriate authority as per the custom of the Acho Dene Koe First Nation.

#### **AUTHORITY OF NEW COUNCIL**

84. Council duly elected under the provisions of this code which have assumed office shall be deemed to be the lawful body representing the members of the Acho Dene Koe First Nation with all the powers and authority pertaining thereto.

#### **INELIGIBILITY OF ELECTED COUNCIL MEMBERS TO HOLD OFFICE**

85. An elected Acho Dene Koe First Nation Council member shall become ineligible to hold office if he/she/they:

- a) Accepts a position as an employee of Acho Dene Koe First Nation;
- b) Fails to comply with the Oath of Office;
- c) Is convicted of an indictable offence while in office;
- d) Misses three (3) or more consecutive regular Council meetings without the approval of Council; or,

- e) Fails to relocate their primary residence to the community of Fort Liard within sixty (60) of the publication of the final election results.

86. In the case of a dispute about whether the Chief or a Councillor has complied with section 82, compliance will be determined by a majority vote of Council for the purposes of determining eligibility under 85(e) after hearing from the Chief or Councillor suspected of non-compliance.

**PROCEDURE FOR REMOVAL FROM OFFICE**

87. Further to Section 85, any elected Council member deemed ineligible to hold office shall be removed by way of Council resolution passed by a quorum of the remaining Council members at a duly convened Council meeting.

**AMENDMENT PROCEDURES**

88. In order to amend this Code, a membership ratification vote must be held. This requires that an Acho Dene Koe First Nation member plus a minimum of twenty (20) additional members must sign a written request to Council explaining the proposed amendments and corresponding rationale for each amendment.

89. Once received by Council, Council shall appoint an Election Code Review Committee in a timely manner who shall be responsible for organizing a meeting with Acho Dene Koe First Nation members to inform them of the requested changes and inform members of the voting date and location.

90. The Committee may appoint a Ratification Officer to assist with the administration of the ratification vote.

91. If the majority of voters casting a ballot approve the amendments, the Code will be amended accordingly and the updated Code will be used in future Acho Dene Koe First Nation elections.